

No. 59.—AN ACT TO PREVENT AND PUNISH FRAUD IN SALES OF GOODS, WARES AND MERCHANDISE AT PUBLIC OR PRIVATE SALE BY ITINERANT VENDORS, AND TO REGULATE SUCH SALES.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. The words "itinerant vendors" for the purposes of this act shall be construed to mean and include all persons, both principals and agents, who engage in a temporary or transient business in this State, either in one locality or in travelling from place to place selling goods, wares and merchandise, and who for the purposes of carrying on such business, hire, lease or occupy any building or structure for the exhibition and sale of such goods, wares and merchandise.

SEC. 2. The provisions of this act shall not apply to sales made to dealers by commercial travellers or selling agents in the usual course of business, nor to bona fide sales of goods, wares and merchandise by sample for future delivery, nor to hawkers on the streets or peddlers from vehicles.

SEC. 3. Every itinerant vendor who shall sell or expose for sale, at public or private sale, any goods, wares and merchandise without State and local licenses therefor, issued as hereinafter provided, shall be punished by imprisonment for not more than sixty days, or by a fine of not more than fifty dollars, or both.

SEC. 4. All persons, both principals and agents, who shall by circular, hand bill, newspaper, or in any other manner, advertise any such sales as those referred to in the section last preceding, before proper licenses shall be issued to the vendor, shall be punished by imprisonment for not more than sixty days or by a fine of not more than fifty dollars, or both.

SEC. 5. It shall be the duty of every itinerant vendor, whether principal or agent, before commencing business to take out a State license and local licenses in the manner hereinafter set forth, but nothing herein contained shall affect the right of any municipal corporation to pass such ordinances relative to itinerant vendors as may be permissible under the general law or under their respective charters.

SEC. 6. Every itinerant vendor desiring to do business in this State shall deposit with the State Treasurer the sum of five hundred dollars as a special deposit, and after such deposit, upon application in proper form and the payment of a further sum of twenty-five dollars as a State license fee, the Treasurer of the State shall issue to him an itinerant vendor's license, authorizing him to do business in this State in conformity with the provisions of this act for the term of one year from the date thereof. Every license shall set forth a copy of the application upon which it is granted. Such license shall not be transferable, nor give authority to more than one person to sell goods as an itinerant vendor, either by agent or clerk, or in any other way than in his own proper person, but any licensee may have the assistance of one or more persons in conducting his business who shall have authority to aid that principal, but not to act for or without him.

SEC. 7. All applications for licenses shall be sworn to, shall disclose the names and residences of the owners or parties in whose interest said business is conducted, and shall be kept on file by the State Treasurer; and a record shall be kept by him of all licenses issued upon such applications. All files and records, both of the State Treasurer and of the respective town or city clerks shall be in convenient form and open for public inspection.

SEC. 8. Before selling under said State license every itinerant vendor shall exhibit the same to the clerk of the town or city where he proposes to make sales. And upon payment to said clerk of a further local license fee, to be ascertained in the manner provided in the following section, and proof of payment of all such other license fees, if any, as are legally chargeable upon local sales, the clerk shall record the said State license in full, shall endorse upon the words, "local license fees paid," and shall affix his official signature, together with the date of such endorsement. Any failure to obtain a local license, and the proper endorsements to be made on said license shall subject such vendor to the same penalty as though no State license had been issued.

SEC. 9. Any itinerant vendor, before making any sale of goods, wares or merchandise, shall make application to the clerk of the city or town in which such goods are kept, or to be kept or exposed for sale or sold by him and, together with such application, shall file a true statement under oath of the average quantity and value of the stock of goods, wares or merchandise so kept; or to be kept or exposed for sale. Such clerk shall submit such statement to the board of listers of such city or town, who shall forthwith after examination of such goods, wares or merchandise so kept, or to be kept or exposed for sale, place a valuation thereon, and transmit a certificate of such valuation to such clerk, who shall submit the same to the board of aldermen or selectmen, as the case may be, who shall forthwith act upon such application; and, if in the judgment of such board such application should be granted, such city or town clerk may be authorized to issue a license to such applicant, and such clerk shall thereupon ascertain the amount to be paid for the local license, by a computation based upon the valuation placed by said listers on such stock of goods, wares or merchandise so kept, or to be kept or exposed for sale, in the ratio, and at the rate of the last preceding assessment of taxes, including the State tax, in such city or town; and upon receipt of the amount so fixed and ascertained shall issue to the person filing or furnishing such statement a local license authorizing the sale of such goods, wares or merchandise within the limits of such city or town, which license shall be and continue in force as long as the licensee thereunder shall continuously keep and expose for sale in such city or town such stock of goods, wares or merchandise, except that such license shall in any event terminate and expire on the thirty-first day of March next following its date. If the statement required by this section is not filed as aforesaid, the board of aldermen or selectmen of the city or town in which such goods are so kept or exposed for sale, or where such itinerant vendor desires to sell such goods, wares or merchandise, shall thereupon fix the sum to be paid for such license, which sum shall be binding upon the parties.

SEC. 10. All State licenses issued under this act shall expire by limitation one year from the date thereof, and may be, if so desired, surrendered at any time prior thereto for cancellation.

SEC. 11. Upon the expiration and return or surrender of each State license the state treasurer shall cancel the same, endorse the date of delivery and cancellation thereon, and place the same on file. He shall then hold the special deposit of each licensee hereinafter mentioned for the period of sixty days, and after satisfying all claims made upon the same under the section next following, shall return said deposit or such portion of the same, if any, as may remain in his hands, to the licensee depositing it.

SEC. 12. Said deposit shall be subject to the payment of any and all fines and penalties incurred by the licensee through violations of this act, and the clerk of the court in which, or the justice by whom, such fine or penalty is imposed shall thereupon notify the State Treasurer of the name of the licensee against whom such fine or penalty is adjudged and of the amount of such fine or penalty, and the State Treasurer, if he has in his hands a sufficient sum deposited by such licensee, shall pay the sum so specified to said clerk or justice, and if the Treasurer shall not have a sufficient sum so deposited he shall make payment as aforesaid of so much as he has in his hands. All claims upon deposit shall be satisfied after judgment, fine or penalty in the order in which notice of the claim is received by the State Treasurer until all such claims are satisfied or the deposit exhausted, but no notices filed after the expiration of the sixty days limit aforesaid shall be valid. No deposits shall be paid over by the State Treasurer to licensees so long as there are any outstanding claims or notices of claims against them, respectively, unless he is satisfied that such claims will not be prosecuted to final judgment or that no fine or penalty will be imposed.

SEC. 13. Justices of the peace shall have concurrent jurisdiction with the county court to the extent of imposing a fine of twenty dollars.

Approved November 24, 1894.

No. 60.—AN ACT TO AMEND SECTION FOUR THOUSAND FOUR HUNDRED TWENTY-SEVEN, REVISED LAWS, RELATING TO TRANSFER OF PRISONERS IN JAIL AWAITING TRIAL.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. Section 4427 of the Revised Laws, is hereby amended so as to read as follows:

When a person is under arrest charged with an offense punishable with death or imprisonment in the State prison or house of correction the governor, if in his opinion such person cannot be properly or safely kept in the jail of the county where such prosecution is pending, may, by order in writing, direct the officer having such person in custody to remove him to the State prison, house of correction, or to any county jail pending proceedings upon such charge. If it appears to the governor that such person is insane and in need of treatment therefor he may in like manner, and for the same time, order him removed to the Vermont asylum for the insane.

SEC. 2. This act shall take effect from its passage. Approved October 16, 1894.

No. 61.—AN ACT RELATING TO THE TRANSFER OF PROPERTY OF NON-RESIDENT WARD TO THEIR GUARDIANS RESIDING OUT OF THIS STATE.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. That in all cases where any guardian and his ward may both be residents of any other state or territory of the United States, and such ward may be entitled to property of any description in this State, such guardian, on producing to the probate court of the probate district in which such property is situated a full and complete transcript from the records of a court of competent jurisdiction in the state or territory in which he and his ward reside, duly exemplified or authenticated, showing that he has been appointed guardian of such ward, and that he has given a bond and security in the state or territory in which he and his ward reside, in double the value of the property of such ward, and also showing to such court that he still remains such guardian, and that a removal of the property of such ward will not conflict with the terms and limitations attending the right by which the ward owns the same, or be or become prejudicial to his interest therein, then such transcript may be entered of record in such court, and such guardian shall be entitled to receive letters or a certificate of guardianship of the estate of such ward from such court, which shall authorize him to demand, sue for, and recover any such property, and remove the same to the place of residence of himself and his ward; and such court may order any resident guardian, executor, or administrator having any of the estate of such ward to deliver the same to such non-resident guardian; provided, all debts in favor of residents or citizens of this State, known to exist against such estate, whether due or to become due, have been first paid or payment tendered.

SEC. 2. This act shall not apply to any case where the parent of the ward, being a resident of this State at the time of his death, shall have appointed by last will and testament a guardian or guardians for said ward, and which guardian or guardians are still living and residing in this State, unless the assent of such testamentary guardian or guardians to the removal of said property shall be satisfactorily shown to the court to which application shall be made as hereinbefore provided.

SEC. 3. This act shall take effect from its passage. Approved November 27, 1894.

No. 62.—AN ACT FIXING THE RESIDENCE OF INMATES OF CERTAIN CHARITABLE INSTITUTIONS.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. No inmate of any hospital, home for aged women or other charitable institution in this State, shall, by reason of being an inmate of such institution, gain a residence in the town where such institution is located so as to become chargeable as a pauper to said town.

SEC. 2. This act shall take effect from its passage. Approved November 13, 1894.

No. 63.—AN ACT AUTHORIZING A MARRIED WOMAN TO BE APPOINTED EXECUTRIX, ADMINISTRATRIX, GUARDIAN OR TRUSTEE.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. A married woman may be appointed executrix, administratrix, guardian or trustee, and the marriage of a single woman shall not affect her authority to so act under a previous appointment.

SEC. 2. This act shall take effect from its passage. Approved November 1, 1894.

No. 64.—AN ACT TO AMEND TWO THOUSAND EIGHT HUNDRED SEVENTY-SEVEN AND TWO THOUSAND EIGHT HUNDRED SEVENTY-NINE OF THE REVISED LAWS, AS AMENDED BY No. 40, LAWS OF 1880. (V.S., AS PROPOSED, SECTIONS THREE THOUSAND ONE HUNDRED FORTY-FOUR AND THREE THOUSAND ONE HUNDRED FORTY SIX.)

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1.—Section 2877 of the Revised Laws is amended so as to read as follows:

Such State's Attorney, or, in case of his absence through inability to attend, an attorney appointed by such probate court shall investigate the case; and if he finds that such insane person is not liable to be supported by the State, he shall attend such court of inquiry and produce, at the expense of the State, such witnesses and testimony as he deems advisable for the protection of the rights of the State.

SEC. 2. Section 2879 of the Revised Laws, as amended by No. 40, Laws of 1880, is amended so as to read as follows: In such cases the State's Attorney or such special attorney shall be paid by the State five dollars a day for the time actually employed in such case and his necessary expenses, which shall be audited and allowed by the State Auditor.

Approved November 16, 1894.

No. 65.—AN ACT RELATING TO PROCEEDINGS IN CASES OF INSANITY, AND TO REPEAL NUMBER FIFTY-FIVE OF THE ACTS OF 1888.

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. No. 55, of the Acts of 1888, is hereby repealed. Approved November 24, 1894.

No. 66.—AN ACT TO AMEND NUMBER 89, OF THE ACTS OF 1888. (V. S., SECTIONS 3196, 3197 AND 3198, AS PROPOSED.)

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. No. 89, of the acts of 1888, is hereby amended so as to read as follows:

An insane person residing in the State shall be supported at the State Asylum or the Brattleboro Retreat at the expense of the State when the income of such insane person and the earnings of the husband or wife and minor children of such insane person are not sufficient for the support of such insane person, with husband or wife, and minor children.

SEC. 2. The husband or wife of such insane person, or if both husband and wife are insane, the guardian of either or the guardian of the minor children may institute a court of inquiry before the probate court of the district where such insane person resides, giving at least ten days notice thereof to the State's attorney of the county. Said court may on hearing, upon appearance or default, and after inquiry as to the income of such insane person and the income and earnings of such husband or wife and minor children, order that said insane person be supported in whole or in part in an insane asylum at the expense of the State.

SEC. 3. A State's attorney, when notified of a hearing under the preceding section, shall attend and represent the State, and for such service shall receive five dollars per day and necessary expenses, to be paid by the State. Approved November 24, 1894.

No. 67.—AN ACT IN AMENDMENT OF SECTION THREE THOUSAND EIGHT HUNDRED AND NINETEEN, REVISED LAWS. (V. S. FOUR THOUSAND THREE HUNDRED AND FORTY-SIX AND FOUR THOUSAND THREE HUNDRED AND FORTY-SEVEN.)

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. Section 3819 of the Revised Laws of Vermont (V. S. 4346 and 4347) is hereby amended so as to read as follows:

The officer shall apprehend and bring forthwith before the judge or justice the owner and keeper, and all persons having the custody of or exercising any control over the liquor seized, either as principal, clerk, servant or agent; and, if upon hearing, it appears that such liquor was intended for sale or distribution contrary to law, unless such liquor is of foreign production and has been imported under the laws of the United States, and in accordance therewith, and is contained in the original packages in which it was imported, in quantities not less than the laws of the United States prescribe, such liquor and the casks or vessels in which it is contained shall be adjudged forfeited and condemned, and the liquor shall be destroyed under a written order of said judge or justice and in his presence or in the presence of some person appointed by him and named in said order for that purpose, who shall join with the officer executing such order in certifying upon the back thereof the execution of the same; and the custom house certificate of importation, and proof of marks on the cask or packages in which such liquor is contained corresponding thereto, shall not be received as evidence that the liquor contained in such packages is that actually imported therein. If the owner or keeper of such liquor is unknown to the officer, or if no person is found in possession or custody of the same, the officer shall apprehend and bring before the judge or justice the owner or occupant of the building or apartments in which such liquor is found, if known to him or can be by him ascertained. Upon condemnation of such liquor any and all persons apprehended and brought before said judge or justice, under the provisions of this section, shall be liable to pay the costs of such proceeding, if in the judgment of the judge or justice any of them by themselves, clerks, servants or agents shall have been engaged in, aided, assisted or abetted the keeping of such liquor for unlawful sale or distribution, or have been privy thereto, or have knowingly permitted the use of any building or apartments by them owned or controlled for the storing or keeping of such liquor for such unlawful sale or distribution. Against any and all persons by said judge or justice adjudged liable to pay such costs, in case such costs are not paid, the judge or justice shall issue an execution in favor of the State of Vermont and against the body or bodies of such persons for such costs, upon which execution shall be certified as follows: "This execution is issued for the costs of the seizure and condemnation of intoxicating liquor kept in violation of law," and persons committed upon such executions shall not be admitted to the liberties of the jail yard.

SEC. 2. All acts and parts of acts inconsistent herewith are hereby repealed. Approved November 27, 1894.

No. 68.—AN ACT TO AMEND SECTION THREE THOUSAND EIGHT HUNDRED AND THIRTY-SIX OF THE REVISED LAWS, AND IN ADDITION TO CHAPTER ONE HUNDRED AND SIXTY-NINE OF THE REVISED LAWS, AND THE VARIOUS AMENDMENTS THEREOF (RELATING TO NUISANCES).

It is hereby enacted by the General Assembly of the State of Vermont:

SECTION 1. Section 3836 of the Revised Laws is amended so as to read as follows:

Every saloon, restaurant, grocery, cellar, shop, billiard hall, bar-room, every drinking place or room used as a place of resort, and every building and erection of whatever kind, or the ground itself where intoxicating liquor is unlawfully sold, furnished, or given away, or kept for selling, furnishing, or giving away unlawfully, and the furniture, fixtures, vessels and contents, and every place or room used or resorted to for gambling, shall be held to be a common nuisance kept in violation of law, and shall be abated or enjoined as hereinafter provided.

SEC. 2. The State's Attorney of the county where such nuisance exists, is kept or maintained, shall commence and prosecute an action in the court of chancery to abate and perpetually enjoin the same, and any person violating the terms of an injunction granted in such proceedings shall be punished as for contempt by a fine of not more than one thousand dollars and not less than five hundred dollars, or by imprisonment for not more than six months, or by both such fine and imprisonment, in the discretion of the chancery.